

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

MARILYN LANEY,

Plaintiff,

v.

UNITED STATES POSTAL SERVICE,

Defendant.

Case No. 3:13-cv-00140-MMD-WGC

ORDER

(Def.'s Motion to Dismiss – dkt. no. 13)

Defendant United States Postal Service (“USPS”) filed a Motion to Dismiss on August 2, 2013, for lack of subject matter jurisdiction. (Dkt. no. 13.) On August 22, 2013, USPS filed a Notice of Failure to Respond to Motion. (Dkt. no. 15.) Plaintiff Marilyn Laney has yet to respond to the Motion.

This case comes before the Court through USPS’s Petition for Removal. (Dkt. no. 1.) Because the case was removed pursuant to 28 U.S.C. § 1442, this Court’s jurisdiction is derivative of the state court’s jurisdiction. *In re Elko Cnty. Grand Jury*, 109 F.3d 554, 555 (9th Cir. 1997). This Court previously held that the Elko Justice Court did not have jurisdiction over Plaintiff’s contract claim, the sole claim in the case. (Dkt. no. 12.) Since the state court lacked jurisdiction over Plaintiff’s contract claim, this Court likewise lacks jurisdiction pursuant to the derivative jurisdiction doctrine. *In re Elko Cnty. Grand Jury*, 109 F.3d at 555.

1 In any event, Plaintiff's failure to file points and authorities in opposition to a
2 motion constitutes consent that the motion be granted. Local Rule 7-2(d); see *Abbott v.*
3 *United Venture Capital, Inc.*, 718 F. Supp. 828, 831 (D. Nev. 1989).

4 Accordingly, it is ordered that Defendant's unopposed Motion to Dismiss (dkt. no.
5 13) is granted.

6 The Clerk is directed to close this case.

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8 DATED THIS 8th day of October 2013.

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MIRANDA M. DU
UNITED STATES DISTRICT JUDGE